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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/081,419	02/22/2002	Dwight Williams	50051	1039
22929	7590	10/04/2005	EXAMINER	
SUE Z. SHAPER, P.C. 1800 WEST LOOP SOUTH SUITE 1450 HOUSTON, TX 77027			GANEY, STEVEN J	
			ART UNIT	PAPER NUMBER
			3752	
DATE MAILED: 10/04/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/081,419

Applicant(s)

WILLIAMS, DWIGHT

Examiner

Steven J. Ganey

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 3,4,10-12 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-9,13 and 15-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. Receipt is acknowledged of the amendment filed on August 2, 2005, which has been fully considered in this action.
2. The indicated allowability of claims 1, 2, 5, 6, 8, 9, 13 and 15-17 is withdrawn in view of the newly discovered reference to Gagliardo et al (U.S. Patent No. 4,503,915). Rejections based on the newly cited reference follow.

Election/Restrictions

3. Claims 3, 4, 10-12 and 14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on April 20, 2004.
4. Applicant's election without traverse of Species III, Figure 4, claims 1, 2, 5-9, 13 and 15-17 in the reply filed on April 20, 2004 is acknowledged.

Claim Objections

5. Claims 1, 2, 5-7, 9, 13, 16 and 17 are objected to because of the following informalities: In claim 1, line 4, the phrase "an additive" should be changed to --a water additive--, in order to provide proper antecedent basis through the remainder of the claims that depend from claim 1. In claim 2, line 3, the phrase "a source of additive and a suction side" should be changed to --the source of water additive and the suction side-- in order to maintain proper antecedent basis. In claim 2, line 5, the phrase "a reservoir

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outlet and a suction side” should be changed to --the reservoir outlet and the suction side-- in order to maintain proper antecedent basis. In claim 5, lines 1 and 2, the phrase “a reservoir outlet to a suction side” should be changed to --the reservoir outlet to the suction side-- in order to maintain proper antecedent basis. In claim 6, line 3, the phrase “a suction side” should be changed to -- the suction side-- in order to maintain proper antecedent basis. In claim 7, line 2, the phrase “a source of water additive” should be changed to --the source of water additive -- in order to maintain proper antecedent basis. In claim 9, line 8, the phrase “an additive source and a suction side” should be changed to --the water additive source and the suction side-- in order to maintain proper antecedent basis. In claim 13, line 2, the phrase “a reservoir outlet to a suction side” should be changed to --the reservoir outlet to the suction side-- in order to maintain proper antecedent basis. In claim 16, line 6, the phrase “a suction side” should be changed to --the suction side-- in order to maintain proper antecedent basis. In claim 17, line 7, both instances of the phrase “a suction side” should be changed to --the suction side-- in order to maintain proper antecedent basis. Appropriate correction is required.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 5, 13 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claims 5 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are between the location of the line leading from the reservoir outlet to the water manifold inlet and the suction side of the pump.

In claim 16, line 6, the phrase "the means", is indefinite since it does not describe any function. Regarding claim 16, the word "means" is not preceded by any words in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by any the words preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967). It is suggested that language such as --the means for connecting-- or --the connecting means-- be provided.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 2, 5-9, 13 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollan et al in view of Williams.

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Hollan et al shows a fire fighting system comprising a pump 33; an around-the-pump system comprising a fitting at 29, a water manifold inlet 30, a line 31 on the suction side of the pump, an injection jet pump 26, a line 40 on the discharge side of the pump and a water additive including a foam concentrate 17, except for the location of the fitting upstream of the water manifold inlet, the size of the pump and the reservoir water source. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the fitting upstream of the water manifold inlet, since the drawing only shows a schematic drawing and the location of the fitting could be located upstream of the water manifold inlet without effecting the operation of the Hollan et al apparatus. Williams shows a fire fighting system using a 2000 or greater gpm pumps to fight fires. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a 2000 or greater gpm pump in the apparatus of Hollan et al, since such a modification would depend on the hazard being protected and one in the fire protection art would choose the appropriate fire pump suitable for the hazard being protected. Also, Williams teaches that such pumps are available in the fire fighting art and such pumps could be used in the system of Hollan et al.

As to the large water reservoir, note that Hollan et al discloses that the system can be used in areas where there are no water supply mains, for example in forest fires in rugged impassable terrain and that the system can be transported swiftly from site to site. It is known in the fire protection art when fighting forest fires that reservoirs such as lakes or ponds are readily used as a main source of water supply and would normally be used in the apparatus of Hollan et al in that situation.

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2. Claims 1, 2, 5-9, 13 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollan et al in view of Worthington.

Hollan et al shows a fire fighting system comprising a pump 33; an around-the-pump system comprising a fitting at 29, a water manifold inlet 30, a line 31 on the suction side of the pump, an injection jet pump 26, a line 40 on the discharge side of the pump and a water additive including a foam concentrate 17, except for the location of the fitting upstream of the water manifold inlet, the size of the pump and the reservoir water source. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the fitting upstream of the water manifold inlet, since the drawing only shows a schematic drawing and the location of the fitting could be located upstream of the water manifold inlet without effecting the operation of the Hollan et al apparatus. Worthington teaches using pumps up 10,000 gpm in fire fighting systems and using reservoirs as water sources. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a 2000 or greater gpm pump in the apparatus of Hollan et al, since such a modification would depend on the hazard being protected and one in the fire protection art would choose the appropriate fire pump suitable for the hazard being protected. Also, Worthington teaches that such pumps are available in the fire fighting art and such pumps could be used in the system of Hollan et al.

As to the large water reservoir, note that Hollan et al discloses that the system can be used in areas where there are no water supply mains and where fire trucks cannot be moved over land to the point of need, for example in forest fires in rugged impassable terrain and that the system can be transported swiftly from site to site. It is known in the

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fire protection art when fighting forest fires that reservoirs such as lakes or ponds are readily used as a main source of water supply and would normally be used in the apparatus of Hollan et al in that situation. Also, Worthington teaches that when water pumper fire truck vehicles are not available, they may be replaced by other water supplies such as reservoirs.

3. Claims 1, 2, 5, 6, 8, 9, 13 and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gagliardo et al in view of Williams.

Gagliardo et al shows a fire fighting system comprising a pump 11; an around-the-pump system comprising a fitting at connection of line 10 at 13, a water manifold inlet 12, a line 13 on the suction side of the pump, an injection jet pump 27, a line 14 on the discharge side of the pump and a water additive including a foam concentrate 23, except for the size of the pump. Williams shows a fire fighting system using a 2000 or greater gpm pumps to fight fires. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a 2000 or greater gpm pump in the apparatus of Gagliardo et al, since such a modification would depend on the hazard being protected and one in the fire protection art would choose the appropriate fire pump suitable for the hazard being protected. Also, Williams teaches that such pumps are available in the fire fighting art and such pumps could be used in the system of Gagliardo et al.

Response to Arguments

4. Applicant's arguments with respect to claims 1, 2, 5-9, 13 and 15-17 have been considered but are moot in view of the new ground(s) of rejection.

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Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven J. Ganey whose telephone number is (571) 272-4899. The examiner can normally be reached on Monday, Tuesday, Wednesday, and Thursday from 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel, can be reached on (571) 272-4919. The fax phone number for this Group is (571) 273-8300.

sjg

8/11/05


STEVEN J. GANEY
PRIMARY EXAMINER
8/11/05